

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD MILLS,

Plaintiff,

v.

ORDER
07-CV-351

SUPERINTENDENT T. POOLE, et al.,

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On November 5, 2007, defendants filed a motion to dismiss plaintiff's amended complaint. On January 7, 2008, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendants' motion be denied.

Plaintiff filed objections to the Report and Recommendation on January 17, 2008. Defendants filed a response thereto.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendants' motion is denied.

The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: February 13, 2008